

(d) *Federal collection of fees.* If the Administrator determines that the fee provisions of a part 70 program do not meet the requirements of §70.9 of this part, or if the Administrator makes a determination under paragraph (c)(1) of this section that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under title V of the Act, collect reasonable fees to cover the Administrator's costs of administering the provisions of the permitting program promulgated by the Administrator, without regard to the requirements of §70.9 of this part.

**§70.11 Requirements for enforcement authority.**

All programs to be approved under this part must contain the following provisions:

(a) *Enforcement authority.* Any agency administering a program shall have the following enforcement authority to address violations of program requirements by part 70 sources:

(1) To restrain or enjoin immediately and effectively any person by order or by suit in court from engaging in any activity in violation of a permit that is presenting an imminent and substantial endangerment to the public health or welfare, or the environment.

(2) To seek injunctive relief in court to enjoin any violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit.

(3) To assess or sue to recover in court civil penalties and to seek criminal remedies, including fines, according to the following:

(i) Civil penalties shall be recoverable for the violation of any applicable requirement; any permit condition; any fee or filing requirement; any duty to allow or carry out inspection, entry or monitoring activities or, any regulation or orders issued by the permitting authority. These penalties shall be recoverable in a maximum amount of not less than \$10,000 per day per violation. State law shall not include mental state as an element of proof for civil violations.

(ii) Criminal fines shall be recoverable against any person who knowingly violates any applicable requirement; any permit condition; or any fee or filing requirement. These fines shall be recoverable in a maximum amount of not less than \$10,000 per day per violation.

(iii) Criminal fines shall be recoverable against any person who knowingly makes any false material statement, representation or certification in any form, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method. These fines shall be recoverable in a maximum amount of not less than \$10,000 per day per violation.

(b) *Burden of proof.* The burden of proof and degree of knowledge or intent required under State law for establishing violations under paragraph (a)(3) of this section shall be no greater than the burden of proof or degree of knowledge or intent required under the Act.

(c) *Appropriateness of penalties and fines.* A civil penalty or criminal fine assessed, sought, or agreed upon by the permitting authority under paragraph (a)(3) of this section shall be appropriate to the violation.

**APPENDIX A TO PART 70—APPROVAL STATUS OF STATE AND LOCAL OPERATING PERMITS PROGRAMS**

This appendix provides information on the approval status of State and Local operating Permit Programs. An approved State part 70 program applies to all part 70 sources, as defined in that approved program, within such State, except for any source of air pollution over which a federally recognized Indian Tribe has jurisdiction.

*Alabama*

(a) Alabama Department of Environmental Management: submitted on December 15, 1993, and supplemented on March 3, 1994; March 18, 1994; June 5, 1995; July 14, 1995; and August 28, 1995; interim approval effective on December 15, 1995; interim approval expires October 15, 1998.

(b) City of Huntsville Department of Natural Resources and Environmental Management: submitted on November 15, 1993, and supplemented on July 20, 1995; interim approval effective on December 15, 1995; interim approval expires October 15, 1998.